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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,710	03/05/2002	Juei-Hua Lin	8055/0K324	7465

7590 11/05/2003

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New York, NY 10022

EXAMINER

PIZIALI, ANDREW T

ART UNIT	PAPER NUMBER
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1775

DATE MAILED: 11/05/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/091,710

Applicant(s)

LIN, JUEI-HUA

Examiner

Andrew T Piziali

Art Unit

1775

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-3 and 31.

Claim(s) withdrawn from consideration: 4-30 and 32.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet


DEBORAH JONES

SUPERVISORY PATENT EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because:

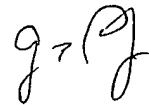
The applicant asserts that the prior art fails to teach or suggest the presently claimed skeletized structure density because a count of raised surfaces performed on prior art Figure 11 (identical figure in both prior art references) indicates a skeletized structure density of 30 to 40 skeletized structures per 200 nanometers square. Additionally, the applicant asserts that the difference in structure is apparent from the color of the glass of the presently claimed invention as opposed to the prior art. The examiner respectfully disagrees. The examiner asserts that Figure 11 illustrates merely one embodiment taught by the prior art and that the color disclosed by the prior art merely represents the color of one embodiment taught by the prior art.

As disclosed by the current applicant, the etching potency range taught by both the prior art and the present invention is between plus 12 units to minus 12 units. Although the presently claimed invention is produced with a potency of 2 units less than the potency used in the prior art preferred embodiment illustrated in Figure 11 (as disclosed by the current applicant), the prior art still teaches the same potency range (plus 12 units to minus 12 units). Although the presently claimed invention has a potency of 2 units less than the preferred embodiment of the prior art (Figure 11), the non-preferred embodiments taught by the prior art read on the current claims.

All the disclosures in a reference must be evaluated for what they fairly teach one of ordinary skill in the art even though the art teachings relied upon are phrased in terms of a non-preferred embodiment or even as being unsatisfactory for the intended purpose, *In re* Boe, 148 USPQ 507 (CCPA 1966); *In re* Smith, 65 USPQ 167 (CCPA 1945); *In re* Nehrenberg, 126 USPQ 383 (CCPA 1960); *In re* Watanabe, 137 USPQ 350 (CCPA 1963).

Continuation of 10. Other:

The formal drawings submitted on 10/16/2003 are approved by the Examiner. The objection to the specification is withdrawn in view of the amendments to the specification.



ANDREW T. PIZIALI
PATENT EXAMINER